

**SUELLEN M. FERGUSON**  
E-Mail: [ferguson@cbknlaw.com](mailto:ferguson@cbknlaw.com)  
Telephone Extension: 3418

February 14, 2012

By email and regular mail

Honorable Roger Berliner  
President  
Montgomery County Council  
100 Maryland Avenue  
Rockville, MD 20850

Re: Town of Kensington

Dear President Berliner:

As the attorney for the Town of Kensington, I am writing to clarify certain legislative actions taken by the Town Council. Recently, the Council adopted several resolutions with respect to the proposed Kensington Sector Plan. Resolution R-03-2012, adopted on January 17, 2012, by a 3-1 vote, stated the Council's continued support for the immediate adoption of the Montgomery County Planning Board's draft version of the Sector Plan and Design Guidelines, and further supported a "Village Center" concept, and the ability in the Sector Plan to explore additional height for the Konterra property, at no point to exceed 75 feet in height, if certain public amenities were provided, if practicable. The Council understood that, to implement this recommendation, it would be necessary to have the SMA zoning allow 75 feet in height, while further limiting the height in the Sector Plan. The Council believes the Kensington Sector Plan should limit the height to 60 feet for the Konterra property with an option to explore the conditions under which the building could be allowed to go to 75 feet.

On January 17, 2012, Marlene Michaelson, Senior Legislative Analyst for the County Council, and Fred Boyd, M-NCPPC Planner, presented to the Mayor and Council at a Town meeting certain minor changes and corrections to the Sector Plan that they intended to present to the PHED Committee. The Town Council was asked to support these changes, and to request that the PHED Committee include the changes in its upcoming recommendation to the full County Council.

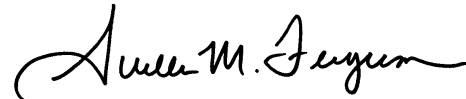
On January 30, 2012, the Council adopted resolutions R-05-2012 and R-06-2012. Resolution R-05-2012, as originally presented to Council at the meeting, supported the

draft Sector Plan with the changes proposed by County Council staff and M-NCPPC staff, with one exception. Resolution R-05-2012 included the wording also contained in R-03-2012 in support of exploring additional height for the Konterra property. During the meeting, Council members discussed a desire for resolution wording that would result in a unanimous vote. It was clear that Council member Sullivan would not vote for the resolution if it contained the Konterra language. In fact, Council member Sullivan came to the meeting with two alternate resolutions, one without the Konterra language and one referencing only the Konterra issue. It was agreed that, because the Council's position on the Konterra property had already been voted on by the Council on January 17 in R-03-2012, there was no need to repeat the Council's support in R-05-2012. Attached is a transcript of the discussion of this issue during the Council meeting, which clearly shows this intent.

Resolution R-05-2012 with certain changes, including the removal of the Konterra language, was adopted unanimously. Resolution R-06-2012 was adopted on a 3-1 vote to clearly indicate the Town Council's objection to any further reduction in FAR, height, or other changes in the Sector Plan that can affect incentive to redevelop in the Town. This was also done separately to preserve the unanimity of the vote on R-05-2012. A copy of all of the resolutions referenced in this letter is attached.

We understand that a question has been raised as to whether the vote on R-05-2012 in some way was intended to override or delete R-03-2012 or the Town Council's support for allowing the exploration of additional height for the Konterra property in the Sector Plan. The answer to that question is clearly no. The removal of the Konterra language from R-05-2012 on January 30 before the vote was recognized by the Council only as an effort to obtain a unanimous vote, and did not affect or amend in any way the adoption of R-03-2012, supporting the exploration of additional height for the Konterra property in the Sector Plan. As a result, to date, the Town Council has supported the draft Sector Plan with the changes suggested by County Council staff and M-NCPPC staff, the Village Center concept, and the exploration of additional height for the Konterra property. The Council does not support further reduction in FAR, height, or other changes in the Sector Plan that can affect incentive to redevelop in the Town. Please let me know if you have any questions with respect to the Town's current adopted position.

Very truly yours,

A handwritten signature in black ink, appearing to read "Suellen M. Ferguson". The signature is fluid and cursive, with a large initial 'S' and 'F'.

Suellen M. Ferguson

SMF/sem  
Enc.